

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**October 27, 2008**

**MISC. ORDER 2008-013**

BY THE COURT:

Associate Justice Rodney Davis is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on October 29, 2008, and October 30, 2008. Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on October 31, 2008, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Raye, Associate Justice; and Harper, bailiff.

**C057199 HUHTAMAKI AMERICAS INC., et al. v. WORKERS' COMPENSATION  
APPEALS BOARD and MADHAW**

Cause called. Jane Woodcock argued for appellant. Thomas L. Plumb argued for respondent. Cause submitted.

At 10:01 a.m., the court recessed. At 10:05 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C055486 THE PEOPLE v. MICHAEL ROBERT GENOVESE**

Cause called. Patricia J. Ulibarri, court appointed counsel, argued for appellant. Wanda Hill Rouzan, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:31 a.m., the court recessed. At 10:36 a.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C054261 SHULL v. SHAW**

Cause called. Ben Rosenfeld argued for appellant. John M. Feser, Jr., Deputy Attorney General, argued for respondent. Cause submitted.

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Sims, J.

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**Court Minutes**

**October 27, 2008, Continued**

**C057241      THE PEOPLE v.      (Certified For Publication)**  
**TRAVIS WYLIE SWEIG**

The trial court's orders granting the suppression motion and dismissing the case are affirmed.

SCOTLAND, P.J.

We Concur:    Nicholson, J.  
Raye, J.

**C057592      THE PEOPLE v.      (Not For Publication)**  
**FERNANDO MIRANDA CHAVEZ**

The judgment is affirmed.

ROBIE, J.

We Concur:    Scotland, P.J.  
Davis, J.

**C057886      THE PEOPLE v.      (Not For Publication)**  
**MICHAEL STEPHEN PETERSON**

The order denying defendant's motion to enforce or vacate the plea is affirmed.

BUTZ, J.

We Concur:    Morrison, Acting P.J.  
Cantil-Sakauye, J.

**C058322      THE PEOPLE v.      (Not For Publication)**  
**JOHN CHRISTOPHER MONTEVERDE**

The judgment is affirmed.

BLEASE, J.

We Concur:    Scotland, P.J.  
Davis, J.

**C058507      THE PEOPLE v.      (Not For Publication)**  
**SEDRICK LEE McDONALD**

The judgment is affirmed.

DAVIS, J.

We Concur:    Scotland, P.J.  
Blease, J.

**C058564      THE PEOPLE v.      (Not For Publication)**  
**SERGIO G. MARTINEZ, JR.**

The judgment is affirmed.

BLEASE, J.

We Concur:    Scotland, P.J.  
Davis, J.

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**October 27, 2008, Continued**

- C058654      THE PEOPLE v. MANUEL VALENCIA      (Not For Publication)**  
The judgment is affirmed.  
BLEASE, J.  
We Concur: Scotland, P.J.  
Davis, J.
- C056497      ALDERSON v. DUNN      (Not For Publication)**  
The order is affirmed. Anderson shall recover costs on appeal. (Cal.  
Rules of Court, rule 8.278 (a) (2) & (a) (4) . )  
CANTIL-SAKAUYE, J.  
We Concur: Davis, Acting P.J.  
Nicholson, J.
- C055346      MILLVILLE ELEMENTARY SCHOOL      (Not For Publication)**  
**DISTRICT et al. v. DAVID HALLMAN**  
**CONSTRUCTION et al.**  
THE COURT:  
The opinion of this court filed September 29, 2008, in the above entitled  
case is modified...  
With these modifications, the petition for rehearing filed by Nichols,  
Melburg & Rosetto, Dan Rosetto, and Kevin Tedder is denied. This modification  
affects the judgment.  
BY THE COURT:  
RAYE, Acting P.J.  
Robie, J.  
Cantil-Sakauye, J.

**October 28, 2008**

- C053705      THE PEOPLE v.      (Not For Publication)**  
**MICHAEL GEORGE ROBERTS**  
The order modifying the verdict is reversed and the matter is remanded to  
the trial court with directions to reinstate the verdict of conviction on count 2,  
Health and Safety Code section 11360, subdivision (a), and for further  
proceedings.  
MORRISON, J.  
We Concur: Nicholson, Acting P.J.  
Raye, J.

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**Court Minutes**

**October 28, 2008, Continued**

- C053815      THE PEOPLE v.      (Not For Publication)**  
**TRAVIS LEON THOMSEN**  
The appeal is dismissed.  
BLEASE, Acting P.J.  
We Concur: Nicholson, J.  
Hull, J.
- C056136      THE PEOPLE v.      (Not For Publication)**  
**JASON JERMELL JAKE**  
The judgment is affirmed.  
ROBIE, J.  
We Concur: Scotland, P.J.  
Nicholson, J.
- C056415      THE PEOPLE v. WESLEY PHILLIPS      (Not For Publication)**  
The judgment is affirmed.  
BUTZ, J.  
We Concur: Blease, Acting P.J.  
Hull, J.
- C057938      THE PEOPLE v.      (Not For Publication)**  
**ROLLINER WEATHERSPOON**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Blease, J.  
Butz, J.
- C055305      GATES et al. v. ARREDONDO et al.;      (Not For Publication)**  
**CHANDLER et al. v. GATES et al.**  
The judgment is modified to vacate the award of damages. Alternatively, the neighbors may file an amended complaint and/or cross-complaint to allege a specific amount of damages. If an amended complaint and/or cross-complaint is filed, the default judgment will be vacated, the default set aside, and appellants will be permitted to file a responsive pleading. The judgment is affirmed in all other respects. The neighbors are awarded costs on appeal.  
RAYE, Acting P.J.  
We Concur: Hull, J.  
Butz, J.

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**October 28, 2008, Continued**

- C056214      TOWER v. SHELL      (Not For Publication)**  
BY THE COURT:  
    The order is affirmed. Tower shall recover his costs on appeal. (Cal.  
Rules of Court, rule 8.278 (a) . )  
BY THE COURT:  
    SIMS, Acting P.J.  
    Davis, J.  
    Nicholson, J.
- C056783      THE PEOPLE v. STEVEN MICHAEL SPLAWN**  
BY THE COURT:  
    Appellant's petition for rehearing is denied.  
    RAYE, Acting P.J.

**October 29, 2008**

- C054318      THE PEOPLE v.      (Not For Publication)**  
**KENNETH LEQUIEZ HAWKINS**  
    The judgment is affirmed.  
    HULL, J.  
We Concur:    Davis, Acting P.J.  
    Nicholson, J.
- C055250      THE PEOPLE v. BRANDON JOHNSTON      (Not For Publication)**  
    The sentence imposed on the second degree robbery conviction (count  
two) is vacated and the matter remanded for resentencing on that offense.  
Following resentencing, the trial court shall prepare an amended abstract of  
judgment that also reflects under item 1 a violation of section "187 (a) /190.2 (a)  
(17) (A)" for count one and a date of conviction for count two of "02/01/2007." A  
certified copy of the amended abstract shall be forwarded to the Department of  
Corrections and Rehabilitation. In all other respects the judgment is affirmed.  
    BUTZ, J.  
We Concur:    Morrison, Acting P.J.  
    Cantil-Sakauye, J.
- C056037      THE PEOPLE v. RAYMOND ESPINOZA      (Not For Publication)**  
    The judgment is affirmed.  
    BLEASE, J.  
We Concur:    Scotland, P.J.  
    Butz, J.

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**October 29, 2008, Continued**

**C057444      THE PEOPLE v.      (Certified For Partial Publication)  
WILLIAM ROBERT NEWBY**

The judgment is affirmed.

HULL, J.

We Concur:    Sims, Acting P.J.  
                 Davis, J.

**C057483      THE PEOPLE v.      (Not For Publication)  
RICKY EDWARD KING**

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur:    Morrison, Acting P.J.  
                 Robie, J.

**C057499      In re K.R.; SACRAMENTO COUNTY      (Not For Publication)  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. T.W.**

The judgment of disposition is affirmed.

SIMS, J.

We Concur:    Scotland, P.J.  
                 Butz, J.

**C056197      In re NEHEMIAH R.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH  
AND HUMAN SERVICES v. DANIELLE R. et al.  
BY THE COURT:**

Appellant Rachel R.'s petition for rehearing is denied.

SIMS, Acting P.J.

**October 30, 2008**

**C051777      THE PEOPLE v. RATTANAK KAK      (Not For Publication)**

The convictions for counts 5 and 8 are reversed... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modifications and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

SCOTLAND, P.J.

We Concur:    Hull, J.  
                 Butz, J.

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**October 30, 2008, Continued**

**C054685      THE PEOPLE v.      (Not For Publication)**  
**RODERICK BRIAN RANDALL**

The judgment is affirmed.

MORRISON, J.

We Concur: Davis, Acting P.J.

Cantil-Sakauye, J.

**C056422      CONSULTING ENGINEERS AND LAND      (Certified For Publication)**  
**SURVEYORS OF CALIFORNIA et al. v.**  
**CALIFORNIA DEPARTMENT OF**  
**TRANSPORTATION et al.; PROFESSIONAL**  
**ENGINEERS IN CALIFORNIA GOVERNMENT**  
**et al.**

The judgment is modified to invalidate as unconstitutional the second and third sentences of section 20209.26 (a) (2), the first sentence of section 20209.32 (b), and section 20209.34. As modified, the judgment is affirmed. This court's prior order staying the trial court's "order re plaintiffs' motion for judgment on the pleadings" is vacated upon the finality of this opinion. PECG shall reimburse CELSOC for its costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) . )

SCOTLAND, P.J.

We Concur: Davis, J.

Cantil-Sakauye, J.

**C056525      LINDERMAN v. VASQUEZ      (Not For Publication)**

The judgment is affirmed. Lindermann shall reimburse Vasquez for her costs on appeal. (Cal. Rules of Court, rule 8.278 (a) . )

SCOTLAND, P.J.

We Concur: Raye, J.

Cantil-Sakauye, J.

**October 31, 2008**

**C054261      SHULL v. SHAW, as California Highway      (Not For Publication)**  
**Patrol Officer, etc., et al.**

The judgment is affirmed. Shull shall pay the CHP's costs of this appeal. (Cal. Rules of Court, rule 8.278 (a) (2) . )

MORRISON, J.

We Concur: Blease, Acting P.J.

Hull, J.